

STREAM CORRIDORS & INSTREAM FLOW

Goals

Public Use. Provide opportunities for a variety of public use activities within publicly owned stream corridors, including subsistence and recreation activities.

Habitat. Protect riparian fish and wildlife habitats and harvest.

Private Ownership of Land. Provide opportunities for private ownership of land near streams.

Water Quality. Protect water quality to support domestic uses, fish and wildlife production, subsistence, and recreational activities.

Forest Products. Where consistent with the management objectives of a stream corridor, provide for the harvest of timber from riparian forests.

Management Guidelines for Stream Corridors

A. Priority of Public Uses in Stream Corridors. As a general rule, DNR will set a higher priority on protecting public use values in stream corridors than providing opportunities for private ownership of land. However, DNR recognizes the strong demand for property along streams and will provide land for private purchase in some stream corridors. Before lands in a stream corridor are disposed of, DNR in consultation with other affected agencies and the public, will assess existing and projected public use needs associated with the stream corridor. Disposals near streams with important public use value will be designed to protect access to, across, and along the stream for fishing, hiking, camping, and other public use activities.

B. Retention of Publicly Owned Buffers as a Management Tool in Stream Corridors.

1. When the management intent for land adjacent to a stream is to permit uses such as public roads, fishing, picnicking, hunting, timber harvest, building fires, camping, or other similar active uses, public ownership of stream buffers should be retained.

2. In state subdivisions, when it has been determined that stream buffers should be kept in public ownership (see B1 above), the buffers will either be retained in state ownership or dedicated to a local government. If streams in subdivisions have recreation, public use, or habitat values of regional or statewide importance, buffers should be retained in state ownership.

3. Publicly owned buffers adjacent to a stream may be retained along the full length of the stream or on the segments determined to have high current or future public use and habitat values.

4. The state will, to the extent feasible and prudent, discourage developments in areas of flooding, unstable ground, significant avalanche risk, and other hazards.

C. Retention of Access Easements as a Management Tool in Stream Corridors.

1. When the primary management intent is to protect the public's right to travel along or across a stream bank, an easement is preferred to establishing a public use area. The public rights reserved in an easement shall be explicitly defined and normally will include only the right of ingress and egress, inclusive of the right to pause briefly to observe wildlife, take photographs, or rest. On an individual basis, the state may reserve other rights (for example, the right to fish or picnic) as necessary to protect the public interest. The public use rights protected by previously established easements are not affected by this policy.

2. Easements along or across streams should establish the right to travel by foot, dogsled, horseback, and snowmobile (unless the use of

snowmobiles is prohibited in a given area). On an individual basis, the right to travel by all-terrain vehicles and wheeled vehicles may be reserved, where doing so is in the public interest. Easements should be reserved for roads or railroads only if they are likely to be built in the foreseeable future.

3. Easements and publicly owned buffers may be used in combination on a stream to provide opportunities for private ownership near the stream and still protect public use, access to public waters, or habitat values on other portions of the stream. Easements should not be used to encourage significant new or increased levels of public uses such as camping, hunting, and fishing. Easements and publicly owned buffers may be used on portions of a stream with important public recreation and habitat values when most portions of the stream are retained for public use, and access across private land is needed to reach public lands.

D. Establishing Widths of Publicly Owned Buffers, Easements, and Setbacks Along Streams.

1. Widths of easements, setbacks, and publicly owned buffers along streams will vary according to the management intent or guidelines described in Chapter 3 subunits for the stream and adjacent uplands. In addition, the buffer, easement, or setback width for any given stream may vary along the stream course depending on topography, vegetation, and land ownership. Establishing buffer, easement, or setback widths for particular streams will be based, at a minimum, on specific objectives: recreational activities to be accommodated, habitat protection and management, noise abatement, visual quality, water quality, prevention of river bank erosion, and land disposal. The buffer widths should be designed to protect the management objectives.

2. Although buffer and easement widths may vary among streams, a basic level of consistency is needed to avoid confusion about the widths of public use and access areas along the state's many streams; also, fieldwork and site analysis to establish separate widths for each stream

corridor would be prohibitively expensive. The following guidelines are intended to establish a reasonable degree of consistency in buffer, easement, and setback widths used by the department when disposing of an interest in state land.

- When it is determined that a publicly owned buffer is appropriate, a standard minimum buffer width (for example a staking setback) of 100 feet should generally be established landward from the ordinary high water mark on each bank.
- Where land near a stream is conveyed from state ownership, a minimum residential building setback of 100 feet will be established landward from the ordinary high water mark on each bank.
- To maintain the stability and function of streams and river banks, commercial and industrial development facilities and structures will not be located closer than 100 feet from the ordinary high water of river or stream unless the use or activity is water-dependent or water-related. The width of the setback will be adequate to maintain public access to riparian areas and protect water quality in accordance with water quality standards established by the Department of Environmental Conservation. Commercial or industrial uses and activities which are neither water-dependent nor water-related may occur only if there is no feasible and prudent alternative to meet the public need.
- When it is determined that a public access easement will be reserved along a stream, a minimum easement of 50 feet will be reserved landward from the ordinary high water mark on each bank.
- As a general standard, publicly owned buffers of at least 1/4 mile landward from the ordinary high water mark on each bank should be retained on streams recommended for legislative designation. Exceptions to this policy may be made where land ownership, topography, or the nature of anticipated public uses in a proposed legislative designation warrant.

E. Separation Between Waterbodies and Potential, Conflicting Uses. Where it is not feasible and prudent to maintain a setback of non-water dependent uses adjacent to fish habitat, public water supplies, or recreational waters, other measures will be implemented to meet the intent of this guideline.

F. Uses Allowed in Easements, Setbacks, and Publicly Owned Stream Buffers. Water-dependent structures, such as docks and boathouses, are allowed within easements, setbacks and publicly owned buffers. If a structure would block public access, alternative access will be provided.

G. Alteration of the Hydrologic System. To the extent feasible and prudent, channelization, diversion, or damming that will alter the natural hydrological conditions and have a significant adverse impact on important riverine habitat will be avoided.

H. Alteration of Floodplains. To the extent feasible and prudent, modification of floodplains to the point where they cannot perform their natural function will be avoided.

I. Soil Erosion. Soil erosion will be minimized by restricting the removal of vegetation adjacent to streams and by stabilizing disturbed soil as soon as possible.

J. Structures in Fish Habitat. See *Fish and Wildlife Habitat* Guideline C, page 2-7.

K. Water Intake Structures. See *Fish and Wildlife Habitat* Guideline D, page 2-7.

L. Protection of Life and Property. See *Settlement* Guideline C-1, page 2-30.

Management Guidelines for Instream Flow

A. Stream Uses to Consider for Instream Flow Reservations. DNR has statutes that establish a process for considering instream flow reservation. Under DNR's statutes, reservation of instream flow is possible for four types of uses:

1. Protection of fish and wildlife habitat, migration, and propagation. Instream flow reservations to protect habitat may be made for

streams that have anadromous or resident fish populations; flow into wetlands that support waterfowl, fur bearer or other wildlife populations; or provide the water supply needed for other habitat types that support wildlife populations.

2. Recreation and park uses.

3. Navigation and transportation uses.

4. Sanitary and water quality uses.

Other uses of water, such as hydropower (which is a diversion of water), are covered by the water rights statutes and regulations.

B. Priorities. Consumptive use of water and potential conflicts with instream water use are not significant issues in the Northwest area at present. There are no streams where near-term development is likely to result in consumptive use of water that will adversely affect instream water uses. No streams have been identified where development could result in increased demand for water consumption in the future. If development occurs on these waterways, instream flow studies may be needed to determine whether water reservations are needed to protect instream uses.

C. Process for Determining Reservations. The process for determining instream flow reservations is generally conducted by the applicant, and should include the following steps for each stream or other waterbody.

1. Identify the management objectives.
2. Estimate the quantity of water seasonally available by direct measurement (hydrograph), predictive methods (regional hydrographic models), or other appropriate methods.
3. Determine the quantities of water already appropriated.
4. In consultation with appropriate agencies, use site-specific studies or other information to determine the instream flow requirements for the resources and uses to be protected. For habitat resources this will require cooperative work and consultation with the Department of Fish and Game to identify necessary conditions for staging, reproduction, spawning, overwintering, and migration of valuable fish and wildlife resources.

D. Other Guidelines Affecting Stream Corridors. Several other guidelines may affect stream corridors. See the following sections of this chapter:

- Coordination and public notice
- Fish and wildlife habitat
- Forestry
- Grazing
- Heritage resources
- Materials
- Public access
- Public and commercial recreation
- Settlement
- Subsistence activities and traditional uses
- Subsurface resources
- Trail management
- Transportation and utilities
- Wetlands management